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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09-994,117	11/26/2001	Peter Rosler	01-378	7336

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Cohen & Grigsby, P.C.
15th Floor
11 Stanwix Street
Pittsburgh, PA 15222

EXAMINER

WALLS, DIONNE A

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 05/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,117

Applicant(s)

ROSLE, PETER

Examiner

Dionne A. Walls

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1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities:

It appears that, in line 2, the word "stop" should be changed to -- top --.

Appropriate correction is requested.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Chuan (US. Pat. No. 6,290,059).

The Figure 4 embodiment of Chuan discloses all that is recited in the claim (See col. 2, line 58 – col. 3 line 5. Note: "tube 21" corresponds to the claimed "hull"; "cap 222" corresponds to the claims "sealing cover having a base surface that has a sealing side"; "knife 311" corresponds to the claimed "cigar cutter").

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chuan (US. Pat. No. 6,290,059).

The Figure 7 embodiment of Chuan discloses all that is recited in the claim (See col. 3, lines 7-11. Note: "tube 21" corresponds to the claimed "hull"; "cigar knife means 32" corresponds to the claims "cover having a base surface" "cigar knife" corresponds to the claimed "cigar cutter") except it may not specifically state or clearly show that the cigar knife means provides a "sealing cover" having a "sealing side" on the base surface; however, this limitation is not deemed to patentably distinguish the claims from the Chuan reference because one having ordinary skill in the art would have provided for such sealing side on the base of the cigar knife means so that, at times when the cap 222 is not in place, the cigar can be adequately preserved from outside air which might dry out the cigar leaves and, thus, cause it be less desirable to a cigar smoker.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chuan (US. Pat. No. 6,290,059) in view of Kontos (US. Pat. No. 6,151,550).

While Chuan may not specifically state that the cigar knife of its invention is comprised of a ring shaped cutting blade, it would have been obvious to one having ordinary skill in the art to provide such a cutting knife in the device of Chuan since such type is known in the tobacco art, as evidenced from the Kontos reference which teaches that a cigar holder, having a cigar cutter attached, may include a cigar cutter which is a hollow cylindrical tube having a sharp/straight edge (see col. 4, lines 3-6).

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7. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuan (US. Pat. No. 6,290,059) in view of Kontos (US. Pat. No. 6,151,550), further in view of Winqvist (US. Pat. No. 1,674,271).

While Chuan modified by Kontos may not explicitly state that the ring-shaped cigar knife exhibits a wave-shaped or zig-zag shaped cutting edge, Kontos does state that the edge of the knife member can be cut at an angle (col. 4, line 5). Further Winqvist discloses a cylindrical cutting blade, serving as a coring/cutting implement, having both zig-zag/ wave-shaped edges (see figs. 2-3). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the cutting edge of the knife of Chuan modified by Kontos and incorporate the zig-zag/wave-shaped edge since shaping blades in this manner is known in the knife/blade art to facilitate the removal of a core section from its source as taught in Winqvist (page 1, lines 31-32).

Allowable Subject Matter

8. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: While the prior art of record discloses a cigar package having a hull, sealing cover and a cigar cutter secured to the top side of a base surface of the sealing cover, said art does not teach nor reasonably suggest such a cigar package wherein the sealing cover includes an open ended hull that is connected to the top side of the base

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surface of the sealing cover, and further wherein the open ended hull defines an inner space with said cigar cutter located therein.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (703) 305-0933. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

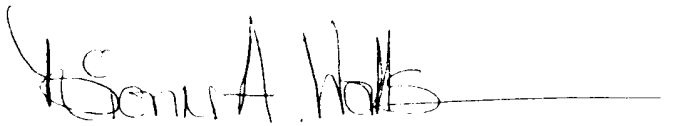
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872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

A handwritten signature in black ink, appearing to read "Dionne A. Walls", followed by a horizontal line.

Dionne A. Walls
May 4, 2003